

**REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE
MINUTES
AUGUST 17, 2009**

PRESENT: Michael Gordon, Mary Pangman-Schmitt, Kevin King, Jennifer McGinnity, Casey Clickner, and Peter Sveum

EXCUSED: Michael Holloway and Richard Hinsman

ABSENT: Scott Minter

STAFF: Yolanda McGowan, Bureau Director; Peggy Wichmann, Legal Counsel; Michelle Solem, Bureau Assistant

GUESTS: Secretary Jackson (Regulation and Licensing), Debbi Conrad (Wisconsin Realtors Association (WRA)), Cori Lamont (WRA) and Tracy Zucka (WRA)

CALL TO ORDER

Peter Sveum, Chair, called the meeting to order at 10:15 a.m. A quorum of six (6) members was present.

ADOPTION OF AGENDA

MOTION: Kevin King moved, seconded by Mike Gordon, to approve the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES (July 27, 2009)

MOTION: Mary Pangman-Schmitt moved, seconded by Casey Clickner, to approve the minutes of July 27, 2009 as published. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Jackson appeared to express her gratitude to the Committee for its work, answer any questions and support its continued efforts. She also asked that every effort be made to prevent a “walking quorum” by ensuring that all information is disseminated through the Bureau Director. The Committee discussed setting optional use and mandatory use dates related to WB-11, being mindful of training and exam issues that could arise. Susan Bird, Education and Exam Unit, was asked to check with the exam vendor and tech schools to see if we could implement an optional period for the form beginning this fall semester with mandatory use in the spring semester.

RECOMMENDATIONS FOR REVISION OF CONTRACTUAL FORM WB-11

DRL Lines 1 & 2

- Lines 1 & 2 should be in bold as in previous versions of WB-11

DRL Line 6

- In order to be consistent with other locations within the form, change from “xxx,xxx” to “xxx or xxx”.

Acceptance (WRA draft lines 22-25)

- Committee changed lines 22-23 to read “acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical copies of the Offer.”

Blanket Statement for Check boxes (WRA draft lines 32-33)

- The sections with check boxes have a statement that states “THE PROVISIONS ON LINES **xxx** THROUGH **xxx** ARE A PART OF THIS OFFER ONLY IF MARKED, SUCH AS WITH AN “X.” THEY ARE NOT PART OF THIS OFFER IF MARKED N/A OR ARE LEFT BLANK.”
- This also occurs other places in WB-11 and are separately addressed. It was asked if a blanket statement would be better.

Occupancy (WRA draft lines 56-59)

- WRA recommended to change “attach” to “attached” on line 57

Closing Prorations (WRA draft lines 70-90)

- Change third check box to read – “Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior year, or current year if known, multiplied by current mill rate (current means as of the date of closing).

WRA Draft (line 103)

- Replace “see below” with the actual line numbers equivalent to 115-161 from the draft.

Inspection & testing (line 196)

- Reinstate the sentence “Buyer agrees to promptly provide copies of all inspection and testing reports to Seller, and to listing broker if Property is listed. (DRL draft line 178)

Buyer’s Pre-Closing Walk-Through (WRA draft lines 206-209)

- Suggestion that lines 206-207 read “within 3 days prior to closing” rather than “within 3 days of closing.”

Property Damage between accepting and closing

- Insert sentence after “restore it to the same condition that it was on the day of this offer.”
- “No later than closing, Seller shall provide Buyer with lien waivers for all repairs and restoration.”

Buyer’s Loan Commitment (WRA draft lines 245-254)

- Change lines 248-250: “Buyer and Seller agree that delivery of a signed copy of any written loan commitment to Seller (even if subject to conditions) shall satisfy Buyer’s financing contingency if, after review of the loan commitment, Buyer has directed in writing, delivery of loan commitment. Buyer’s written direction shall accompany the loan commitment. Delivery shall not satisfy this contingency if accompanied by a notice of unacceptability.”

Financing Unavailability (WRA draft lines 258-264)

- Re-word line 261 to read: “Seller shall then have 10 days to deliver to Buyer written notice...”

This Offer is not Contingent upon Financing (WRA draft lines 265-271)

- Re-word line 267: “right to terminate this Offer by delivering written notice to Buyer”
- Recommend replacing “financial” with “financing” at line 271
- Make sure that lines 227-280 are on the same page in the final formatting
- Line 225 – Provisions at lines 227 through 280 should have additional language to explain how to complete the check box section of the contingencies. Remove the box from the “This offer is not contingent upon...”
- 265 – remove check box – caps underline solid box and add “7 days”
- Change final sentence under this offer is not contingent on financing sentence to read: “Buyer understands and agrees that this Offer is not contingent on the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access for an appraisal constitute a financing contingency.”
- Add sentence in the not contingent on financing section (line 266) “If Buyer does not provide written evidence from financial institution or other third party in control of the funds that buyer shall have the funds available at closing, Seller has the right to terminate this Offer...”

Appraisal Contingency (WRA draft lines 272-280)

- Some would like to have ‘right to cure’ language returned; others do not agree with cure provision – rather preferring that the parties re-negotiate, if desired

Gap Endorsement (WRA draft lines 301-304)

- Recommendation regarding line 304: “gap endorsement or equivalent gap coverage ...”

Disbursement (WRA draft lines 357-367)

- Remove the words “back” and “original” in lines 364-366 (DRL Draft)
- Remove the deadline of 90 days and revert to current language as it related to a deadline to return the earnest money.

Closing of Buyer’s Property Contingency (WRA draft lines 383-390)

- Suggestion that line 389 read “... within ____ hours of Buyer’s actual receipt of said notice...”

Caution (WRA draft line 410)

- Caution should be written entirely in bold typeface. “Proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.”

Right to Cure (WRA draft lines 413-420)

- Change line 417 to read “within 3 days prior to closing” rather than “within 3 days of closing.”

REVIEW OF OTHER CONTRACTUAL FORMS FOR REVISION

Next Forms to begin work on include: **WB-40, WB-41, WB-42, WB-12, & WB-13**

MEDIA REPORTS RELATING TO THE PRACTICE OF REAL ESTATE

None.

SCHEDULE FUTURE MEETING DATES

Next Meeting: September 15 – 10:00 – 121A
November 4 – 10:00 – 121A (tentative)

ADJOURNMENT

MOTION: Michael Gordon moved, seconded by Jennifer McGinnity, to adjourn the meeting at 2:17 p.m. Motion carried unanimously.